

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In Re:

TRACY D CARDINAL

Debtor(s)

NOTICE OF MOTION AND MOTION  
FOR DISMISSAL OR CONVERSION

Case No. - BKY 18-33211 KAC  
Chapter 13

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TO: All parties in interest under LOCAL RULE 9013-3.

1. Gregory A. Burrell, Trustee, moves the Court for the relief requested below and gives notice of hearing.
2. The Court will hold a hearing on this motion at 10:30 a.m., or as soon thereafter as counsel may be heard, on **Thursday, March 14, 2019**, in U.S. Bankruptcy Court, Courtroom 2C, Second Floor, United States Courthouse, 316 North Robert Street, St. Paul, Minnesota.
3. Any response to this motion must be filed and served not later than Friday, March 8, 2019, which is five days before the time set for the hearing (including Saturdays, Sundays, and holidays), ***Unless a response opposing the motion is timely filed, the court may grant the motion without a hearing.***
4. The Court has jurisdiction of this motion pursuant to 28 U.S.C. §§157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. This motion arises under 11 U.S.C. §1307 and Bankruptcy Rule 1017. This motion is filed under Bankruptcy Rule 9013 and Local Rule 9013-1 *et seq.* The petition commencing this Chapter 13 case was filed on 10/17/18. The case is now pending in this Court.
5. If testimony is necessary as to any facts relevant to this motion, Amy Gildemeister, Chapter 13 Office, 100 South Fifth Street, Suite 480, Minneapolis, Minnesota, will testify on behalf of the Trustee.
6. The Trustee requests that this case be dismissed or converted to a Chapter 7 case, and such other relief as the Court deems just, because Debtor(s) have failed to make payments to Trustee thereby creating current defaults or arrearages on plan payments of \$1240.00 as of February 15, 2019, and subsequent plan payments that may come due by the date of the hearing of this motion. The last payment credited to the Debtor(s)' account was on 1/14/2019. Total payments of \$2480.00 have been made to date hereof. Required monthly payments are currently \$1240.00.

**The February, 2019 payment is not included in the listed default amount.**

Any payment less than the amount required to bring the plan current will not prevent dismissal of this case. If the default, including the payment due for February, is brought current by the hearing date, the Trustee will strike the motion.

**All payments to cure plan arrears must be made with a cashiers check or money order and sent to: Gregory A. Burrell; PO Box 860026; Minneapolis, MN 55486-0026. Do not send payments to the trustee's office.**

**NO PERSONAL CHECKS WILL BE ACCEPTED.**

**WHEREFORE**, the Trustee requests an order granting the relief prayed for herein.

**Gregory A. Burrell, Trustee**

Dated: February 15, 2019

/e/ Heather M. Forrest  
Heather M. Forrest #0398764  
Jeffrey M. Bruzek #319260  
Counsel for Chapter 13 Trustee  
100 South Fifth Street, Ste. 480  
Minneapolis, MN 55402  
(612) 338-7591

**VERIFICATION**

I, Amy Gildemeister, an employee of the Trustee, declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: February 15, 2019

/e/ Amy Gildemeister  
Amy Gildemeister  
Chapter 13 Office

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In Re:

TRACY D CARDINAL

Debtor(s)

UNSWORN DECLARATION FOR  
PROOF OF SERVICE

Case No. - BKY 18-33211 KAC  
Chapter 13

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I, Amy Gildemeister, declare that on the date stated below I served a copy of the Notice of Motion and Motion for Dismissal or Conversion and Unsworn Declaration of Proof of Service, upon each of the entities named below in the manner described, as follows:

**Copy to Debtor(s) addressed to:**

TRACY D CARDINAL  
16511 FRANKLIN TRAIL  
PRIOR LAKE, MN 55372

**Additional Copy(s) by electronic mail or by first class U.S. mail postage prepaid addressed to:**

and I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: February 15, 2019

/e/ Amy Gildemeister  
Amy Gildemeister  
Chapter 13 Office